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13	On Appeal from the United Stated District Court for the Eastern District of California		
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15	IN THE UNITED STATES COURT OF APPEALS		
16	FOR THE NINT	TH CIRCUIT	
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18	FRIENDS OF YOSEMITE VALLEY, et al.	Case No. 04-15682	
19	Plaintiffs,) SECOND DECLARATION	
20) OF) MICHAEL J. TOLLEFSON	
21	V.	}	
22	GALE NORTON, in her official capacity as Secretary of the Interior, et al.,		
23	Defendants.		
24		_)	
25	I, Michael J. Tollefson, declare as follows:		
26	1. This declaration updates the court on the status of NPS projects and		
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28	programs within the Merced River corridor, elaborating upon the declaration filed		

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in support of Defendants' Response to Plaintiffs' Request for Relief (attached hereto as Exhibit 14). It specifically addresses the seven projects that Plaintiffs have sought to enjoin, as well as the Park's response to the Ninth Circuit's ruling on user capacity and the El Portal boundary. The National Park Service (NPS) is moving forward to address these two issues that were identified as deficient by this court. The Park released its User Capacity Management Program for the Merced River Corridor in February 2004 (Exhibit #13 attached hereto). This document describes the various management tools employed by the NPS to address visitor use within the 81 miles of the Merced River corridor. It includes the quantitative indicators and standards instituted through VERP, day-to-day practices, and those programs that have been in place for decades. In concert, these tools provide an elaborate network of protection and enhancement for the ORVs of the Merced Wild and Scenic River corridor. The Park will address the Merced River corridor boundary issues in the El Portal Administrative Site as part of the proposed El Portal Comprehensive Design Plan and its environmental impact statement. If the boundary is revised through this process, the Merced WSR Comprehensive Management Plan (MRP) will be amended to reflect the new boundary.

- 2. These projects, as detailed later in this declaration and as further described in the completed NEPA documentation, will protect and enhance all ORVs in the Merced River corridor and result in: (1) restoration of areas to natural conditions, thus allowing natural processes to prevail in the Merced River corridor; (2) a smaller footprint for development in Yosemite Valley; (3) reduction in congestion in Yosemite Valley; and (4) an improved experience for visitors to the Merced River corridor, providing opportunities for increased connections with the natural world.
 - 3. The National Park Service has been moving forward to complete

compliance and implement projects in the river corridor based on guidance of the Merced River Plan since the plan was completed in 2000. The Park is not moving with undue haste to implement projects. As specified and disclosed in previous completed NEPA documents, the timing of project components is sequenced so that each ensuing phase can be completed without impediments. Actions now taking place, such as cutting trees, are those that need to be completed before construction can begin later in the year.

- 4. El Portal Office Building Annex: This flood recovery replacement project will result in the construction of an 8,500 square foot, two-story addition to the Park's existing maintenance facility and warehouse complex in El Portal. The building addition will be located on a previously disturbed parcel currently used as a landscaped lawn. The parcel is now included within the Merced River boundary set forth in the Merced River Plan and the area would remain within the river corridor boundary under any future boundary expansion scenario (as required by the 9th Circuit Court of Appeals decision). Any modification of the boundary would not change the environmental analysis conducted to date nor would it prejudice a future decision on the river corridor boundary. This project relocates administrative functions to an area that will have less impact on river ORVs (Exhibits 14, 9A and 9B). Because this project only replaces office space lost in the flood, it does not result in any increase in employee or visitor use within the river corridor. When completed, temporary office trailers will be removed.
- 5. A construction contract was awarded on March 30, 2004 for this 8,500 square foot, two-story addition to the Park's existing maintenance and warehouse complex in El Portal. Submittal documents are now being prepared by the contractor and the Notice to Proceed is anticipated on May 3, 2004 pending approval of the submittal documents. On-site activities can commence upon issuance of the Notice to Proceed. Initial on-site activities in early May would

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include development of a construction staging area, excavation for the foundation, and procurement of the structural elements. Looking ahead six months, the foundation and building frame will be constructed. The building is anticipated for occupancy in May 2005. If this project were delayed into May or June, substantial schedule and financial impacts would be incurred (ca. \$10,000). A delay of six months or more would most likely result in a Termination for Convenience which would result in a cost equaling approximately 12% of the contract (ca. \$300,000).

6. The project is consistent with all of the elements of the Merced River Plan, including the management zoning prescribed for the area (Zone 3C, Park Operations and Administration). The project is not located in the River Protection Overlay and does not require a Wild and Scenic Rivers Act Section 7 analysis as it does not directly or adversely affect river values or free flow. The project will protect and enhance the Outstandingly Remarkable Values (ORVs) by concentrating high-intensity administrative uses in El Portal which would allow for increased protection and enhancement of natural and cultural resource ORVs for the remainder of the river corridor (Exhibit 9B, pg 21). ORVs identified for this recreational river segment are scientific, geologic processes/conditions, recreation, biological, cultural, and hydrologic processes. (MRP, Exhibit 15, pg. 46, Table 2). As stated in the YVP/SEIS, there would be no impact on the geologic process/condition ORV, since no proposed actions affect the igneous and meta-sedimentary bedrock in the El Portal segment. Similarly, there would be no impact on the scientific ORV because the project will not interfere with the value of the river for research (Exhibit 9B, pg 21). No impacts to hydrologic processes and recreational ORVs are expected, as the project affects an area that has already been disturbed and is not within the River Protection Overlay (Exhibit 9B, pg 21). The YVP/SEIS states that relocation of NPS headquarters to Railroad Flat could have negligible adverse effects on the biological and cultural ORVs; however,

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during the development of more detailed designs for this project, it was determined that there would be no impacts to biological and cultural ORVs since the project would be located entirely within a currently disturbed area.

- 7. This project is called for in the Yosemite Valley Plan and is consistent with the information and environmental analysis presented in its Environmental Impact Statement (YVP/SEIS). NEPA and related compliance requirements and project approvals were finalized with the signing of the YVP/SEIS Record of Decision in December 2000. In accordance with the requirements of NPS Director's Order 12, a Memo-to-File was filed on March 19, 2003 documenting that all necessary NEPA and related compliance was completed. The Memo-to-File was updated and revised on January 30, 2004 (Exhibits 9A, 9B).
- 8. East Yosemite Valley Utilities Improvement Plan: This project makes improvements to and consolidates utility lines scattered throughout the Valley into fewer corridors. Once completed, there will be 21,000 linear feet less of utility lines than there are now and utility line crossings of the Merced River will be reduced from an existing thirteen to only three. Over 90% of the utility lines will be located out of sensitive resource areas (Exhibits 1, 11, 12). This project will not increase use within the river corridor because it does not increase the capacity of the El Portal Wastewater Treatment Plant, the main sewer lift stations, or the main sewer line under the El Portal Road that transports all wastewater from Yosemite Valley to El Portal. (Exhibit 12, pp 1-6).
- 9. On February 21, 2004 tree removal activities began for the project and were completed March 18, 2004. A construction contract was awarded on April 7, 2004 and submittal documents are now being prepared by the contractor. The Notice to Proceed is anticipated on April 26, 2004, pending approval of the submittal documents. The contractor's preliminary bid schedule indicates that onsite activity will begin June 21, 2004 at the Yosemite Creek Lift Station and

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Residence #1 vicinity. Starting July 28, 2004 work is scheduled to commence in the Camp 6 area. The remaining work will commence in September, 2004, including river crossing work, which must be accomplished during low water levels.

- 10. If this project were delayed into June, the project completion date would slip and costs could be incurred for the delay. If delays extend into the Fall, the low water season could be lost, severely delaying project completion and increasing costs. Delays beyond 6 months would require renegotiation or termination of the contract, and the NPS would be liable for costs for materials, labor, and profit. More importantly, there would also be a delay in correcting critical sewer line deficiencies, which would allow adverse environmental impacts to continue. Additionally, any delays to the project, which services Curry Village, will delay opening of the Curry Village Employee Housing, which in turn will delay the completion of the Yosemite Lodge Area Redevelopment Project, due to the inability to remove employee housing from the Lodge area.
- 11. The public involvement review documents for this project included a detailed analysis of the effects of this project on the Merced WSR. That analysis found that the project is consistent with all elements of the Merced River Plan. The project encompasses utility upgrades for the entire Valley, and each of the river management zones where the project will occur allows for utilities and utility crossings of the river. Only where absolutely unavoidable, elements of the project are sited within the RPO (such as river crossings). A Wild and Scenic Rivers Act Section 7 analysis was completed and it was determined that the project will not directly or adversely affect river values or free flow. The project will also protect and enhance the river's ORVs by reducing utility infrastructure within the riverbed and adjacent floodplain areas, thereby reducing the potential for future adverse effects. Many of the existing antiquated sewer lines are now adversely affecting

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river processes by interrupting natural drainage patterns through riparian and meadow areas adjacent to the river. The project enhances ORVs by consolidating utility corridors under roads and into more ecologically suitable and resilient areas, and by allowing for the removal of utilities from many meadows, riparian, and riverbank areas identified for restoration in the YVP/SEIS.

- 12. NEPA and related compliance requirements and project approval were finalized with the signing of the East Yosemite Valley Utilities Improvement Plan Environmental Assessment, Finding of No Significant Impact, on November 24, 2003 (Exhibit 12). Although this project was not called out specifically in the YVP/SEIS, the selected alternative in the Yosemite Valley Plan was described as including removal of utilities in areas identified for ecological restoration. In addition, this project is based on the visitor use levels prescribed in the General Management Plan and the YVP/SEIS. Some of the restoration benefits resulting from the project are related to the removal of utilities from environmentally sensitive areas, as proposed under this project. Also, prior to approval of the YVP/SEIS, Yosemite National Park was placed under a State of California Cleanup and Abatement Order to address existing capacity and condition problems with the sanitary sewer system in Yosemite Valley (Order Number 5-00-703). This Order is still in effect and requires that the National Park Service address these problems. Work on the Cleanup and Abatement requirements is on-going. The relationship of this project to the order is explained in full in Exhibit 14 at ¶24.
- 13. Curry Village Employee Housing: By constructing centralized employee dormitories in the Curry Village area, this project removes concessioner employee housing from the river floodplain and places it into areas better able to withstand development. The housing units have been carefully located within the site, thus minimizing the removal of mature trees and other existing vegetation to

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the greatest extent feasible. Parking areas have been designed with oil water separators and drainage from the site is allowed to sheet flow to the greatest extent possible, minimizing potential changes to existing drainages. Construction of the access road and electric main into the site will not impair the natural function of the river. (Exhibit 8B, pg. 3). This project does not increase user capacity within the river corridor since it only replaces the existing and temporary, poor quality housing. (Exhibit 8)

14. The Curry Village Employee Housing construction documents will be complete in June 2004. Soils testing will be conducted in April and May to verify design criteria. If work is stopped now, the soils information would not be available and could result in design delays and/or costly change orders during construction. Construction of employee housing will be combined into a single contract with the construction of Yosemite Lodge Area Redevelopment Project and Curry Village cabins. The contract award is scheduled for September 2004 and construction completion is anticipated for September 2005. A tree removal contract was issued in October 2003, and 290 of 324 trees have been removed. A stump removal contract is scheduled for award in April 2004 with completion in July 2004. If work were stopped now, the tree and stump removal contracts would have to be modified and additional costs may be incurred. If the delay extends into July, stump removal will not be complete, thus impacting the construction start date. If the delay continued to September 2004, the construction contract award would be postponed until work could proceed, possibly increasing costs or necessitating re-advertisement.

15. The NPS carefully reviewed this project for compliance with the Wild and Scenic Rivers Act. As explained in the compliance documentation (Exhibits 8A and 8B), the project is consistent with all of the elements of the Merced River Plan, including the management zoning prescribed for the area (Zone 3B, Visitor

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Base and Lodging). The area to be developed is an upland site located south of Southside Drive and separated from the river by Southside Drive and a wooded area north of Southside Drive. The project is primarily outside the River Protection Overlay, although a short portion of an access road and an electric utility corridor cross through the River Protection Overlay to tie into facilities located on existing Southside Drive. The project does not require a Wild and Scenic Rivers Act Section 7 analysis as it does not directly or adversely affect river values or free flow. The Park's review of this project found that the proposed facilities would not have an adverse effect on the river or its ORVs. As stated in the YVP/SEIS, there would be no impact on the scientific ORV because the project will not alter the ability to conduct scientific research on the river. Similarly, there would be no impact on the geologic process/condition ORV since no proposed actions affect the U-shaped valley and moraines of the Valley. The YVP/SEIS recognizes that there will be overall benefits to the scenic, recreational, hydrologic and biological ORVs since restoration activities in the river corridor will provide more benefits than the limited adverse effects related to new development in upland habitats. The YVP/SEIS also recognizes some minor adverse effects on the cultural ORVs from development in the greater Curry Village area due to the potential for disturbance of river-related archeological resources. There are no known archeological resources on the Curry Village Employee Housing site; however, the park developed a cultural resource protection and mitigation plan using (1) the Park's 1999 Programmatic Agreement Among the National Park Service at Yosemite, the California State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Planning, Design, Construction, Operations, and Maintenance, Yosemite National Park, California, and (2) consultation with locally affiliated Native American tribes.

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16. Curry Village and East Yosemite Valley Campground

Improvements: This project protects and enhances ORVs by (1) removing campgrounds and related facilities from the River Protection Overlay, (2) removing Southside Drive from crossing Stoneman Meadow, (3) reducing day visitor and overnight parking spaces, (4) restoring 2.1 acres of currently disturbed wetlands, and (5) siting campsites and other facilities in order to protect and enhance wetlands within the redesigned campgrounds and meadows near Curry Village. Because there will be 300 fewer accommodations than before the 1997 flood, user capacity will not be increased in the river corridor.

- 17. Design for the campground improvements was completed April 12, 2004 and a construction contract award for 30 RV sites is scheduled for August 2004, with completion anticipated in February 2005. The award of construction and tree removal contracts for 59 walk-in campsites is anticipated in late Fall 2004, pending funding availability. A contract for tree removal at the RV sites was awarded on March 29, 2004, and approximately 180 of 270 trees have been removed to date. If work were stopped now, the tree removal contract would be modified to include increased costs. If the delay continued to August, the construction contract award would be delayed until work could proceed, and would likely increase proposed costs or necessitate re-advertisement.
- 18. Design for the Curry Village cabins will be complete in June 2004. This project will be combined into a single construction contract with the Yosemite Lodge Area Redevelopment Project and Curry Village Employee Housing, with a contract award scheduled for September 2004. If work were stopped now, the tree removal contract would be modified to include increased costs, or terminated and work added to the construction contract. If the delay continued to September, the construction contract award would be delayed until work could proceed, and would likely increase proposed costs or necessitate re-

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advertisement.

- 19. The project results in a net benefit to wetlands. The total area of directly disturbed wetlands is 0.015 acre. The redesign of the Lower Pines Campground associated with this project enables the restoration of over 1.0 acre of existing disturbed wetlands in that campground area, and the proposed removal of Southside Drive across Stoneman Meadow allows for the restoration of an additional 1.1 acres in that area and a reduction in existing habitat fragmentation. Overall the project will allow the restoration of much more wetland habitat than it will disturb.
- 20. The NPS carefully reviewed this project for compliance with the Wild and Scenic Rivers Act. As explained in the compliance documentation (Exhibits 6 and 7), the project is consistent with all of the elements of the Merced River Plan, including the three management zones prescribed for the area (3B - Visitor Base and Lodging, 2C - Day Use and 3A - Camping). The project removes campsites now located within the River Protection Overlay. The project does not require a Wild and Scenic Rivers Act Section 7 analysis because it does not directly or adversely affect river values nor free flow. Overall, the project will protect and enhance each ORV on a segment-wide basis. The project will not affect the scientific ORV as the project will not alter the ability to conduct scientific research on the river; and there will be no effect to the geologic processes/conditions ORV since no proposed actions affect the U-shaped valley and moraines of the valley. The project will protect and enhance: (1) the scenic ORV by removing campsites and infrastructure from the RPO, (2) the recreation ORV by improving and increasing the number of campsites and lodging facilities, thereby providing more opportunities to experience river related recreational activities, (3) the biological ORV by restoring the RPO with appropriate riparian, wetland or meadow vegetation, (4) the cultural ORV by the removal of Southside Drive through

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Stoneman Meadow, thereby enhancing the cultural landscape by restoring the open character of the meadow, and (5) the hydrologic processes ORV by the removal of campsites from the RPO, which will improve the flood regime and allow the river to meander more freely.

- 21. NEPA and related compliance requirements and project approval were finalized with the signing of the Curry Village and East Yosemite Valley Campground Improvements Environmental Assessment, Finding of No Significant Impact, on February 19, 2004. The Curry Village and East Yosemite Valley Campgrounds Improvement Project is consistent with the specifications called for in the YVP/SEIS. The project supports the management activities and direction contained in the Merced River Plan (e.g., Wild and Scenic Rivers Act Section 7 determination, River Protection Overlay, management zoning prescriptions) to address user capacity, protection and enhancement of Outstandingly Remarkable Values, and management of park resources, visitor use, and facilities. Overall, the preferred alternative would result in a net decrease of 41 overnight visitor accommodations, including a reduction of 138 accommodations in the Curry Village area and an increase of 97 campsites in the campgrounds area.
- 22. Yosemite Lodge Area Redevelopment: The Yosemite Lodge Area Redevelopment removes buildings from the floodplain and creates lodging units that are more connected to a national park experience. Renovation will allow for only six more guest rooms than there are currently; there will be 244 fewer units than before the 1997 flood. This project restores approximately 37 acres. This area is located near the Merced River where Yosemite Lodge facilities formerly existed. Restoration activities include non-native plant removal, hydrologic function restoration, and removal of social trails through the area. The Camp 4 portion of the project removes an abandoned electrical substation and increases camping and interpretive opportunities for visitors. The rerouting of Northside

Drive will improve Valley-wide traffic circulation by eliminating congestion at the Yosemite Falls intersection and decreasing traffic gridlock that often occurs on busy summer afternoons. This new road segment will traverse an area formerly impacted by lodge facilities. A more detailed project description can be found in Exhibits 4, 5, and 14 at ¶17.

- 23. Design for the Yosemite Lodge Area Redevelopment will be complete in June 2004. This project will be combined into a single construction contract with the Curry Village Employee Housing and Curry Village cabins, with a contract award scheduled for September 2004 and completion in September 2006. A tree removal contract was issued on March 29, 2004 and 183 of 720 trees have been removed. A stump removal contract is scheduled for award in April 2004 with completion in July 2004. If work is stopped now, the tree and stump removal would be delayed, necessitating a contract modification. If the delay extends into July, stump removal will not be complete, thus impacting the construction start date.
- 24. The NPS carefully reviewed this project for compliance with the Wild and Scenic Rivers Act. As explained in the compliance documentation (Exhibits 4 and 5), the project is consistent with all of the elements of the Merced River Plan, including the river management zoning prescribed for the area (3B Visitor Base and Lodging, 2C Day Use, 2B Discovery, and 3A Camping or 3C Park Operations and Administration). The development portion of this project is not located in the River Protection Overlay although restoration activities may occur in the RPO. The project does not require a Wild and Scenic Rivers Act Section 7 analysis because it does not directly or adversely affect river values nor free flow. Overall, the project will protect and enhance ORVs on a segment-wide basis. The project will have no net effect on cultural ORVs for the Valley segment and no effect on the geologic processes/conditions ORV since no proposed actions affect

the U-shaped valley and moraines of the valley. The project will enhance: 1) the scientific ORV by restoring a 37-acre area adjacent to the Merced River to natural conditions, thereby improving the local area for scientific research, 2) the scenic ORV by improving the view from the river of the restoration area, and by undertaking tree management activities that would create a more open landscape similar to Yosemite Valley conditions before Euro-American settlement, 3) the recreation ORV by the creation of a boardwalk between the Lodge and the river's north bank sandbar, allowing visitors access to the river without damaging the riverbank, 4) the biological ORV through the restoration of 37 acres at the project site. The restoration effort would include the removal of revetments and a diversion dam near the confluence of Yosemite Creek and the Merced River to restore overland flow across the floodplain, restoration of native vegetation and eradication of non-native plants.

- 25. NEPA and related compliance requirements and project approval were finalized with the signing of the Yosemite Lodge Area Redevelopment Environmental Assessment, Finding of No Significant Impact, on February 13, 2004. The Yosemite Lodge Area Redevelopment Project is tiered from and consistent with the specifications called for in the YVP/SEIS. As prescribed in the YVP/SEIS, the project will result in a net increase (from current conditions) of six units at the Lodge, but this will result in 214 fewer rooms than existed at the Lodge before the 1997 flood. The project will also result in 28 new campsites at Camp 4.
- 26. Yosemite Village Parking and Transit Area Improvements

 Environmental Assessment: This project involves completion of a tiered sitespecific EA for an interim parking and transit staging area to be located near
 Yosemite Village, adjacent to the Merced River, in a previously disturbed area
 formerly known as Camp 6. As part of the project's Purpose and Need, the

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alternatives being developed seek to: (1) improve the existing dirt parking lot in order to minimize dust, control storm water run-off, and make the parking area more suitable for year-round use; (2) improve circulation and parking in order to reduce vehicle congestion, improve pedestrian safety, and provide consolidated parking for tour buses; (3) restore, where possible, the natural water courses that pass through the project site,(4) replace existing, inadequate visitor facilities (restrooms and visitor contact station), and (5) remove and restore parking areas located near the River Protection Overlay. The alternatives are being designed to replace the existing inefficient parking area, and they will not result in any increase in day-visitor parking the Valley nor will they result in any increase in visitor use within the river corridor. All of the alternatives will be compliant with the criteria and considerations specified in the MRP.

27. NEPA and related compliance is now underway. Internal and public scoping have been completed. Natural resource-related data collection, including preliminary soil investigation and wetlands delineation, is scheduled for April and May 2004. Public review of the EA is planned for mid-August 2004. Pending completion and approval of the EA, final project design will be completed and a construction contract awarded in the Winter of 2004-05. If work on this project were stopped, there would be a delay in data collection. A delay in completing the wetlands delineation could diminish the effectiveness of the delineation and may necessitate re-evaluation in Spring 2005. Geotechnical investigations (entailing small borings) and wetlands delineation will be taking place in April and May. In the next six months, pending completion of NEPA compliance, design will be proceeding and a construction contract award is anticipated in the fall/winter of 2004-05. If work were stopped, there would be a delay in gathering information for design. A delay in completing the wetlands delineation could diminish the effectiveness of the delineation and necessitate re-evaluation in Spring 2005.

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- 28. The project is still in preliminary planning stages, and will be consistent with all of the elements of the Merced River Plan, including the management zoning prescribed for the area (Zone 3C, Park Operations and Administration and 2C, Day Use). The project would remove existing parking areas that are located within RPO and restore the area to natural conditions. The project would not require a Wild and Scenic Rivers Act Section 7 analysis as it would not directly or adversely affect river values or free flow. The restoration of the River Protection Overlay area at Camp 6, would benefit the river's hydrological ORV, as stated in the YVP/SEIS (YVP, Vol. I, pg 4.2-1). The YVP/SEIS also concluded that the relocation of parking outside of the River Protection Overlay would in fact result in beneficial impacts on scenic and biological ORVs as well (YVP, Vol. I, pg 4.2-174).
- 29. Camp Wawona Redevelopment and Proposed Land Exchange: The National Park Service is no longer actively pursuing the Camp Wawona Redevelopment Project and Proposed Land Exchange, and has discontinued all planning and NEPA compliance activities associated with the project. The project proponent is continuing to propose redevelopment on their own, privately owned land.
- 30. User Capacity Management Program: As stated in my declaration of February 23 to the District Court, the User Capacity Management Program describes the various management tools employed by the NPS to address visitor use within the 81 miles of the Merced River Corridor (Exhibit 14 at ¶30). Where appropriate, these management actions involve specific numbers, such as facility capacities and trailhead quotas. The purpose of addressing user capacities is stated in the Wild and Scenic Rivers Act: "...to protect and enhance the values which cause it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment

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of these values.... Management plans for any such component may establish varying degrees of intensity for its protection and development of the special attributes of the area." (WSRA §10(a)). The objective is not a prescriptive number but the quality of visitor experience and the integrity of those values for which the river was designated Wild and Scenic. The Visitor Experience and Resource Protection (VERP) program establishes a methodology based in science for monitoring the condition of those values and taking necessary management action to insure that those values are protected. All of the tools listed in the user capacity management program, including VERP, are being implemented in the park now.

31. NEPA analysis, including public involvement, was completed for the VERP component in the Merced Wild and Scenic River Comprehensive Management Plan and Final Environmental Impact Statement (2000). Although the User Capacity Management Program distributed to the public and submitted to the court in February goes into more detail with implementation actions, the elements of that program were part of the Merced River Plan EIS under "Management Actions" and "Existing Management Actions" (MRP/EIS, II-62). The NPS is now implementing VERP in the Park. The final study design for monitoring indicators this year, as well as the enhanced protocol for water quality sampling and statistical methodology, are currently undergoing external scientific review. Data collection will be conducted in the Summer of 2004 and quantitative analysis will begin in September 2004. Should monitoring indicate that management action is required to bring conditions within allowable standards in ways that significantly affect visitor use, subsequent NEPA environmental compliance will be completed as appropriate. As the Park implements VERP, there will be continued and ongoing opportunities for members of the public to provide input throughout the process. Public open houses in the Park are scheduled for April 22, May 26, June 30, July 28, August and September (dates to be

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determined), and a public meeting focusing on VERP is scheduled for October 19. At these meetings, updates on VERP status will be presented and there will be opportunities for public comment on VERP activities. After data collection is completed in Fall of 2004, there will be both a scientific peer and public review of the first year's activities and findings. A formal analysis of findings will be published in the Superintendent's Annual Report for 2004 and annually after that.

32. Resolution of the Merced River Corridor Boundary in El Portal: The Merced River corridor boundary issues in the El Portal Administrative Site will be addressed as part of the proposed El Portal Comprehensive Design Plan and its environmental impact statement (CDP/EIS). Until the El Portal CDP/EIS is complete, the Park will take no action to implement YVP construction projects in El Portal except for the El Portal Building Annex (Exhibit 14 at ¶35). The CDP/EIS will be a two-year, multi-phased, detailed NEPA planning process. The NPS will specify in the Purpose and Need statement for the CDP/EIS that resolution of the El Portal WSR river boundary issue is one of the primary goals of the process. This process will have an extensive public involvement component and will be analyzed as part of the NEPA process. The CDP/EIS will be undertaken in cooperation with Mariposa County to assist their needs for a new town plan for El Portal. Acquisition of funding and issuance of a Notice of Intent are anticipated for Fall 2004. Once the boundary issue is addressed through the CDP/EIS, the Merced River Plan will be amended to reflect the revised boundaries.

33. Congressional Funding and Priorities for Yosemite National Park: If Plaintiffs-Appellants prevail in their Request for an Emergency Motion for Injunction Pending Appeal, the NPS will lose the tremendous momentum and support garnered through extensive NEPA planning efforts. Moreover, the funds expended to date on the lengthy NEPA compliance documents that accompanied these projects (totaling approximately \$5 million over and above the \$10 million

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2	for already spent on the YVP and MRP) will be rendered obsolete. The	
3	Congressional funds now allocated for obligation in fiscal year 2004 (totaling \$70	
4	million dollars) could be lost because of continued delays. In conversations with	
5	staff from the Appropriations Committee, they have made it clear that Yosemite's	
6	funding could be reallocated to support deficit reduction efforts.	
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8	I declare under penalty of perjury that the foregoing is true and correct. Executed	
9	April 15, 2004 in Yosemite National Park, CA.	
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13	Michael J. Tollefson	
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